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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,488	09/11/2006	Rodrigo Lopez-Sansalvador	27600U	8255

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THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

EXAMINER

TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
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3673

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,488	Applicant(s) LOPEZ-SANSALVADOR, RODRIGO	
	Examiner Michael Trettel	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 7, 13, 14, 34-38, and 44 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can refer back to a preceding claim in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6, 8-12, 15-33, and 39-43 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims generally suffer from syntax and typographical errors and appear to be a direct translation from the Spanish language. The examiner notes the following errors present in claim 1 as an example:

there is no antecedent basis for “its lower portion” in line 2;

in line 5 it appears that the first “and” should be deleted;

in line 7 it appears that “crossing” should be changed to --extending--;

in lines 8 and 9 it is suggested that the phrase “to mount and rotate the stretchers which are rotationally mounted” be changed to --to rotationally mount the stretchers--;

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in lines 11 to 12 there is no antecedent basis for “the longitudinal sides of the first stretcher”;

in line 12 “such” should be changed to --said--.

The above is not meant to be a comprehensive listing of the errors present in all of the pending claims. It is suggested that all of the claims be revised for typographical errors and for syntax in response to this rejection.

Claim 20 contains the trademark/trade name Velcro. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a hook and loop fastener material and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Koch (US 3,238,539). Koch shows a rotatable bed formed by a stationary bed frame with a head part 2, foot part 3, and side frames 4 connecting the head and foot parts. Vertical posts 2', 3' are spaced apart by transverse tubes 5, 5', with head and foot end pivots 20 being attached to the transverse tubes 5'. These pivots 20 form a rotational axis for a rotational frame formed by a pair of end frame members 21 attached by side frame tubes 19. Mattress halves 15, 15' form a lower mattress and are articulated to the side frame members 21 by arms 17, 18. A similar upper mattress is formed by mattress halves 16, 16' also articulated to the side frame members by arms 17, 18. Roller tracks 23 are attached to the transverse tubes 5' and support rollers 22 attached to the ends of the arms 17. This supports each mattress frame half as they are rotated around the longitudinal axis formed by the pivots 20. The side frame tubes act as side barriers for a patient placed between the upper and lower mattresses.

Allowable Subject Matter

Claims 2-6, 8-12, 15-33, and 39-43 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sharps (US 2007/0113336), Jackson (US 7,343,635), Hand et al (US 6,701,553), Ruf (US 5,020,170), Hogan (US 3,757,129), Cunningham (US 2,188,592), Ward (US 1,990,357),

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Brennan (US 4,937,901), and the UK application to Rogers (GB 2,039,731A) show rotating type patient supports which are of particular interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is (571) 272-7052. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Trettel
Primary Examiner
Art Unit 3673

/Michael Trettel/
Primary Examiner, Art Unit 3673